

CITY COUNCIL REPORT



MEETING DATE: 11/06/2007 ITEM No. 21 GOAL: Neighborhoods

SUBJECT

Consent to amend the Recreational Land Use Agreement (RLUA for TPC) and the Cost-Share and Land Use Agreement (CLUA for WestWorld) between the Bureau of Reclamation (BOR) and the City of Scottsdale

REQUEST

Adopt Resolution No. 7376 amending Bureau of Reclamation Contract No. 5-07-30-L0213 and City of Scottsdale Contract No. 1986-299-COS-A9, and Bureau of Reclamation Contract No. 2-07-32-L0793 and City of Scottsdale Contract No. 198-052-COS-A11, that will increase the annual allocated administrative cost for the BOR from \$55,000 for each contract to \$100,000 plus an annual 5% escalation cost for each facility.

BACKGROUND

On November 11, 1998, the City Council adopted Resolution No. 5181 which memorialized the Basin Management Agreement between the City and BOR, establishing policies and guidelines for the collection and distribution of funds deposited in the TPC Basin Management Account.

Resolution No. 5181 also established an annual payment requirement of \$55,000 for BOR oversight of the TPC and WestWorld contracts. Prior to 1998 BOR oversight cost were covered by the Central Arizona Water Conservation District. The CAWCD directed the BOR to pass on the contract administration cost directly to the partners which resulted in the agreement between the City and the BOR covering the actual cost to the BOR. The BOR currently collects appropriate actual cost for contract administration oversight from Pima County and the City of Phoenix

The BOR has notified the City that the annual funding for oversight of each contract administration needs to increase to \$100,000 plus an annual 5% escalation cost for both the TPC and WestWorld contracts. The original amount established at \$55,000 was an estimate of actual cost at that time. The BOR has indicated that actual cost from 1998 to 2006 has been between \$100,000 and \$102,000 annually. The difference in the cost budgeted and actual cost has continued to be covered by CAWCD since 1998. This adjustment to the budget will bring the funding in line with the actual cost for contract administration oversight.

ANALYSIS & ASSESSMENT

Amending the RLUA (TPC) and the CLUA (WestWorld) will provide the BOR with adequate funding to provide the necessary annual oversight and administration of the TPC and WestWorld contracts and annual operation. The BOR charges appropriate time for the Area Manager and staff for oversight of the TPC and WestWorld contracts. The City does not pay any rental or lease cost for the use of the BOR land at the TPC Scottsdale or WestWorld

Action Taken _____

Community impact. The BOR requires community involvement and comment on all TPC and WestWorld projects. The BOR attends all appropriated public meetings and planning sessions.

RESOURCE IMPACTS

Available funding. Funds to cover the directed increase have been included in the FY 2007/2008 Budget.

Staffing, workload impact. There will be no staffing or workload impacts on the City by this action.

Maintenance requirements. No maintenance impacts will be imposed upon the City of Scottsdale as a result of this amendment. All maintenance will remain the responsibility of the TPC and WestWorld.

**OPTIONS & STAFF
RECOMMENDATION**

Description of Option A: Adopt Resolution No. 7376 which approves Amendment No. 9 to Contract No. 5-07-30-L0213 and Amendment No. 11 to contract No. 2-07-32-L0793

Description of Option B: Reject Resolution No. 7376 which denies approval of Amendment No. 9 to Contract No. 5-07-30-L0213 and Amendment No. 11 to contract No. 2-07-32-L0793.

Recommended Approach: Adopt Resolution No. 7376 which approves Amendment No. 9 to Contract No. 5-07-30-L0213 and Amendment No. 11 to contract No. 2-07-32-L0793

Proposed Next Steps: Once the City approves the adoption of Resolution No. 7376 the amendment will be in place.

RESPONSIBLE

Community Services Department

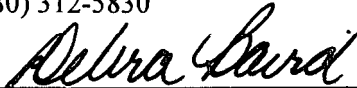
DEPT(S)

STAFF CONTACTS

Tom Beat, Special Projects/Contracts Manager, email: tbea@scottsdaleaz.gov, ph.# (480) 312-7843.

Roger Klingler, Assistant City Manager, email: rklingler@scottsdaleaz.gov, ph# (480) 312-5830

APPROVED BY



10-3-07

Debra Baird, Community Services General Manager
dbaird@scottsdaleaz.gov (480) 312-2480

Date



10/3/07

Craig Clifford, Financial Services General Manager
cclifford@scottsdaleaz.gov (480) 312-2364

Date



10/15/07

Roger Klingler, Assistant City Manager
rklingler@scottsdaleaz.gov (480) 312-5830

Date

ATTACHMENTS

1. Resolution No. 7376
2. Amendment No. 9 to Contract No. 5-07-30-L0213
3. Amendment No. 11 to Contract No. 2-07-32-L0793

RESOLUTION NO. 7376

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE AMENDMENTS TO TWO RECREATIONAL LAND USE AGREEMENTS BETWEEN THE UNITED STATES OF AMERICA AND THE CITY.

WHEREAS, on July 29, 1982, the United States of America, acting through the Bureau of Reclamation ("Reclamation"), and the City of Scottsdale ("City") entered into a recreational land use agreement ("WestWorld Agreement") (City Contract No. 1988-052-COS), which permitted City to use a portion of the Paradise Valley Flood Detention Basin of the Central Arizona Project in Maricopa County, City of Scottsdale, Arizona, for the construction and operation of the Scottsdale Horsemen's Park ("WestWorld"); and

WHEREAS, on June 10, 1985, Reclamation and City entered into a recreational land use agreement ("TPC Agreement") (City Contract No. 1986-299-COS), which permitted City to use a portion of the Paradise Valley Flood Detention Basin of the Central Arizona Project in Maricopa County, City of Scottsdale, Arizona, for the construction and operation of the Scottsdale Golf Complex; and

WHEREAS, Article 17 the WestWorld Agreement permits amendments to that Agreement at any time; and

WHEREAS, Article 18 of the TPC Agreement permits amendments to that Agreement at any time; and

WHEREAS, both the WestWorld Agreement and the TPC Agreement have been amended several times; and

WHEREAS, Reclamation and City desire to execute Amendment No. 11 to the WestWorld Agreement and Amendment No. 9 to the TPC Agreement, which will modify the annual administrative fees payable by City to Reclamation for Reclamation's costs in administering the Agreements;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. Mary Manross, Mayor, is hereby authorized and directed to execute, on behalf of the City of Scottsdale, the Eleventh Amendment to Recreational Land Use Agreement between the United States of America and the City of Scottsdale, Bureau of Reclamation Contract No. 5-07-30-L0213, City of Scottsdale Contract No. 1988-052-COS-A11.

Section 2. Mary Manross, Mayor, is hereby authorized and directed to execute, on behalf of the City of Scottsdale, the Ninth Amendment to Recreational Land Use Agreement between the United States of America and the City of Scottsdale, Bureau of Reclamation Contract No. 2-07-32-L0793, City of Scottsdale Contract No. 1986-299-COS-A9.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona, this 6th day of November, 2007.

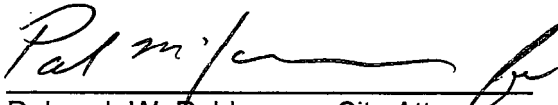
CITY OF SCOTTSDALE, an
Arizona municipal corporation

Mary Manross, Mayor

ATTEST:

Carolyn Jagger, City Clerk

APPROVED AS TO FORM:



Deborah W. Robberson, City Attorney

**NINTH AMENDMENT TO RECREATIONAL
LAND USE AGREEMENT
BETWEEN THE
UNITED STATES OF AMERICA AND
THE CITY OF SCOTTSDALE, ARIZONA**

This Ninth Amendment to Recreational Land Use Agreement Between the United States of America and the City of Scottsdale, Arizona (the "Amendment") is made and entered into this 6th day of November, 2007, by and between the City of Scottsdale, an Arizona municipal corporation ("City"), and the United States of America, acting through the Bureau of Reclamation ("Reclamation"), collectively referred to as the "Parties".

RECITALS

- A. City and Reclamation are parties to a certain Recreational Land Use Agreement (the "Agreement") (BOR Contract No. 5-07-30-L0213, City of Scottsdale Contract No. 1986-299-COS) dated June 10, 1985.
- B. The Agreement permits City to use a portion of the Paradise Valley Flood Detention Basin of the Central Arizona Project in Maricopa County, City of Scottsdale, Arizona, for the construction and operation of the Scottsdale Golf Complex.
- C. Article 18 of the Agreement permits amendments to the Agreement at any time.
- D. The Agreement has previously been amended a number of times since its initial execution, as follows:

<u>DOCUMENT</u>	<u>DATE</u>
Original Agreement	June 10, 1985
Amendment No. 1	January 9, 1987
Amendment No. 1(a)	January 9, 1987
Amendment No. 2	January 9, 1987
Amendment No. 3	September 9, 1987
Amendment No. 4	February 4, 1988
Amendment No. 5	April 17, 1995
Amendment No. 6	November 3, 1998
Amendment No. 7	May 19, 2003
Amendment No. 8	May 8, 2007

- E. Amendment No. 6, among other things, added Article 19 to the Agreement, to provide for the payment of certain administrative fees by City to Reclamation.
- F. The Parties desire to increase the administrative fees payable by City to Reclamation.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises contained herein, and other good and valuable consideration received, the Parties agree as follows:

TERMS

1. The recitals that appear above are incorporated into this Amendment.
2. Article 19 of the Agreement is hereby amended and restated in its entirety as follows:

ARTICLE 19: Administrative fees

As and for consideration for Reclamation's costs in the effective administration of this Agreement, City agrees to pay to Reclamation the sum of one hundred thousand dollars (\$100,000) each fiscal year. The first payment shall be for the fiscal year 2008/2009 and shall be due on December 31, 2007. The payment for each fiscal year thereafter shall include a five percent (5%) increase for escalation of costs. The payment for each fiscal year shall be due not later than each succeeding 31st day of December. Basin Management Fees may not be used for payment of administrative costs required by this article.

3. All terms and conditions in the Agreement shall apply to this Amendment.
4. Except as modified by this Amendment, the Agreement remains in full force and effect.

[FOLLOWING SPACE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have caused to be affixed the signatures of their respective authorized officials as of the date first above written.

United States of America, by and through the
Bureau of Reclamation

By _____

Its _____

Approved as to legal form and sufficiency:

Field Solicitor, Phoenix

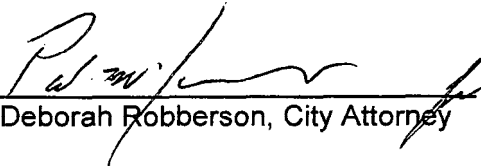
City of Scottsdale, an Arizona
municipal corporation

Mary Manross, Mayor

ATTEST:

Carolyn Jagger, City Clerk

In accordance with A.R.S. § 11-952, the undersigned, as legal counsel for the City of Scottsdale, has reviewed the foregoing intergovernmental agreement and has determined that it is in appropriate form and is within the powers and authority granted to the City.



Deborah Robberson, City Attorney

**ELEVENTH AMENDMENT TO RECREATIONAL
LAND USE AGREEMENT
BETWEEN THE
UNITED STATES OF AMERICA AND
THE CITY OF SCOTTSDALE, ARIZONA**

This Ninth Amendment to Recreational Land Use Agreement Between the United States of America and the City of Scottsdale, Arizona (the "Amendment") is made and entered into this 6th day of November, 2007, by and between the City of Scottsdale, an Arizona municipal corporation ("City"), and the United States of America, acting through the Bureau of Reclamation ("Reclamation"), collectively referred to as the "Parties".

RECITALS

- A. City and Reclamation are parties to a certain Recreational Land Use Agreement (the "Agreement") (BOR Contract No. 2-07-32-L0793, City of Scottsdale Contract No. 1988-052-COS) dated June 10, 1985.
- B. The Agreement permits City to use a portion of the Paradise Valley Flood Detention Basin of the Central Arizona Project in the City of Scottsdale, Maricopa County, Arizona, for the construction and operation of the Scottsdale Horsemen's Park ("WestWorld").
- C. Article 17 of the Agreement permits amendments to the Agreement at any time.
- D. The Agreement has previously been amended a number of times since its initial execution, as follows:

<u>DOCUMENT</u>	<u>DATE</u>
Original Agreement	July 29, 1982
Amendment No. 1	March 14, 1984
Amendment No. 2	February 21, 1985
Amendment No. 3	March 17, 1986
Amendment No. 4	September 9, 1987
Amendment No. 5	November 3, 1998
Amendment No. 6	September 14, 1999
Amendment No. 7	September 14, 1999
Amendment No. 8	September 22, 2000
Amendment No. 9	June 5, 2001
Amendment No. 10	April 28, 2004

- E. Amendment No. 5, among other things, added Article 18 to the Agreement, to provide for the payment of certain administrative fees by City to Reclamation.
- F. The Parties desire to increase the administrative fees payable by City to Reclamation.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises contained herein, and other good and valuable consideration received, the Parties agree as follows:

TERMS

1. The recitals that appear above are incorporated into this Amendment.
2. Article 18 of the Agreement is hereby amended and restated in its entirety as follows:

ARTICLE 18: Administrative fees

As and for consideration for Reclamation's costs in the effective administration of this Agreement, City agrees to pay to Reclamation the sum of one hundred thousand dollars (\$100,000) each fiscal year. The first payment shall be for the fiscal year 2008/2009 and shall be due on December 31, 2007. The payment for each fiscal year thereafter shall include a five percent (5%) increase for escalation of costs. The payment for each fiscal year shall be due not later than each succeeding 31st day of December. Basin Management Fees may not be used for payment of administrative costs required by this article.

3. All terms and conditions in the Agreement shall apply to this Amendment.
4. Except as modified by this Amendment, the Agreement remains in full force and effect.

[THIS SPACE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have caused to be affixed the signatures of their respective authorized officials as of the date first above written.

United States of America, by and through the
Bureau of Reclamation

By _____

Its _____

Approved as to legal form and sufficiency:

Field Solicitor, Phoenix

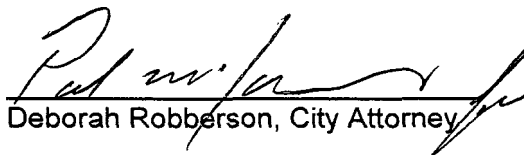
City of Scottsdale, an Arizona
municipal corporation

Mary Manross, Mayor

ATTEST:

Carolyn Jagger, City Clerk

In accordance with A.R.S. § 11-952, the undersigned, as legal counsel for the City of Scottsdale, has reviewed the foregoing intergovernmental agreement and has determined that it is in appropriate form and is within the powers and authority granted to the City.



Deborah Robberson, City Attorney